

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD SCOTT KINDRED,

Plaintiff,

v.

KIMBERLY MENNINGER, et al.,

Defendants.

Case No. 1:20-cv-00255-DAD-BAM

**ORDER REGARDING PLAINTIFF'S
REQUEST FOR VOLUNTARY
DISMISSAL**

(Doc. 4)

Plaintiff Richard Scott Kindred ("Plaintiff") is a detainee at Coalinga State Hospital proceeding *pro se* and *in forma pauperis* in this civil action.

On April 2, 2020, the Court screened Plaintiff's complaint and granted Plaintiff leave to file a first amended complaint or a notice of voluntary dismissal within thirty (30) days from the date of service of that order. The screening order informed Plaintiff that certain of his claims should have been filed in the Central District of California. (Doc. 3.) On April 16, 2020, Plaintiff filed a document titled "Motion for Leave to Transfer from Eastern District, County of Fresno to Central District." (Doc. 4.) In the motion, Plaintiff requests that the Court allow him to dismiss this action without prejudice so that he may re-file the matter in the Central District of California. (*Id.* at 1-2.) The Court construes Plaintiff's request as one for voluntary dismissal of this action

1 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

2 Under Rule 41(a)(1)(A)(i), “a plaintiff has an absolute right to voluntarily dismiss his
3 action prior to service by the defendant of an answer or a motion for summary judgment.”
4 *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999)
5 (quotation and citation omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no
6 court order is required, the parties are left as though no action had been brought, the defendant
7 can’t complain, and the district court lacks jurisdiction to do anything about it.” *Id.* at 1078. No
8 defendant has been served in this action and no defendant has filed an answer or motion for
9 summary judgment.

10 Accordingly, this action is terminated by operation of law without further order from the
11 Court.¹ Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to terminate all pending
12 motions and deadlines and to close this case.

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14 IT IS SO ORDERED.

15 Dated: April 17, 2020

16 /s/ Barbara A. McAuliffe
17 UNITED STATES MAGISTRATE JUDGE
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27 ¹ The Court notes that Plaintiff need not obtain the Court’s explicit permission to attempt to
28 re-file his complaint. However, the Court also cannot provide legal advice to Plaintiff regarding
any potential issues that may arise when or if he attempts to re-file this action.